

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 26804 of 2005(N)

PETITIONER:

**JACOB CHACKO,
S/O.CHACKO, AGED 56 YEARS, GOVERNMENT CONTRACTOR,
KARICKAMPALLIL HOUSE, NANNATTUMALIL,
CHECKIDIKADU P.O., EDATHUA, ALAPPUZHA DIST.**

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVT. DEPARTMENT OF FINANCE,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. SECRETARY TO GOVERNMENT, DEPARTMENT OF
PUBLIC WORKS, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.**
- 3. THE SUPERINTENDING ENGINEER,
PUBLIC WORKS DEPARTMENT (ROADS & BRIDGES)
SOUTH CIRCLE, THIRUVANANTHAPURAM.**
- 4. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, ROADS DIVISION,
ALAPPUZHA.**

BY GOVERNMENT PLEADER SMT. K.R. DEEPA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE G.O.(P) NO.84/97/PW&T DTD. 19/08/97 ISSUED BY THE 2ND RESPONDENT.
- EXT.P2: COPY OF CLAUSE 68 OF MDSS.
- EXT.P3: COPY OF THE SPECIAL CONDITIONS OF CONTRACT EXECUTED WITH THE RESPONDENTS 3 & 4.
- EXT.P4: COPY OF SECTION 29 OF PWD MANUAL.
- EXT.P5: COPY OF ART: 15.2.2. OF KERALA PWD MANUAL.
- EXT.P6: COPY OF ART:180,184 & 185 OF THE KERALA FINANCIAL CODE.
- EXT.P7: COPY OF THE JUDGMENT DTD. 18/09/02 IN O.P.NO.25741/02 OF THIS HON'BLE COURT.
- EXT.P8: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN CONT. CASE © NO.379/04 DTD. 25/06/04.
- EXT.P9: COPY OF THE ORDER OF THE HON'BLE SUPREME COURT OF INDIA DTD. 4/05/05 IN CIVIL APPEAL NO.3148/05 AND CONNECTED CASES.
- EXT.P10: COPY OF G.O.(RT) NO.193/04/PWD DTD. 19/02/04 ISSUED BY THE 2ND RESPONDENT.
- EXT.P11: COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE RESPONDENTS DTD. 9/05/05.

/TRUE COPY/

Kss

KURIAN JOSEPH J.

W.P(C)No.26804 of 2005

Dated this the 14th day of February, 2007

JUDGMENT

The writ petition is filed with the following prayer:-

- i) issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to effect the payment of admitted bill amounts due to the petitioner forthwith, with interest at the rate of 12% per annum with effect from the date of registration of bills.

In the counter affidavit it is stated that payments are made strictly following the priority. Therefore, in case the priority is overlooked it will be open to the petitioner to approach the first respondent in which case appropriate action in accordance with law will be taken by the first respondent. The question of interest is left open to be pursued before the civil court, making it clear that in the event of the petitioner approaching the civil court the time taken for prosecuting this writ petition shall be excluded while computing the period of limitation.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.